

effective to modulate the levels of TREM-1 and /or ligand binding activity whereby the immune response is modulated in the animal.”

From the applicant Interview Summaries (both of records) with the examiner, it appears that the language “a portion of” in front of “...amino acid 1-136 of SEQ ID NO:2,...” has been omitted in the Amendment stated in the Notice of Allowance. The Substance of The Interview of October 15, 2010 made of record is stated here for clarification:

#### **SUBSTANCE OF THE INTERVIEW**

The examiner called on October 15, 2010 to propose additional amendments to the ones of October 14, to bring the Claims in condition of allowance. For Claim 1, the examiner proposed to introduce the following language “wherein said fragment consist” (underlined) and to delete “a portion of” so it reads as follow: “A method of modulating an immune response including administering to an animal, in need thereof, a composition comprising a soluble polypeptide of SEQ ID NO: 2, or a fragment thereof, wherein said fragment consist of (deleted “a portion of”) amino acid 1-136 of SEQ ID NO: 2, in an amount effective to modulate the levels of TREM-1 and /or ligand binding activity whereby the immune response is modulated in the animal.”

The applicant agreed to this addition of language but disagreed with the deletion of the language “a portion of” before “...amino acid 1-136 of SEQ ID NO:2...”. The applicant wanted that part of Claim 1 to remain and to read similar to Claim 3.

As agreed on October 15, the changes made in Claim 1 from October 14 was reading as follow: “A method of modulating an immune response including

administering to an animal, in need thereof, a composition comprising a soluble polypeptide of SEQ ID NO:2, or a fragment thereof, wherein said fragment consist of a portion of amino acid 1-136 of SEQ ID NO: 2, in an amount effective to modulate the levels of TREM-1 and /or ligand binding activity whereby the immune response is modulated in the animal.

In Claim 3, the word “or” was added before “said fragment”.

In Claim 11, the word “or” was added before “said fragment”.

Regardless of whether the Claim 1 amendment stated in the Notice of Allowance is an error or a misunderstanding, the amended Claim 1 as stated in the Notice of Allowance is unacceptable for the applicant for the following reasons. 1) The applicant records of both interviews show that the applicant has requested addition of the language “ a portion of “ during the interview of October 14 and did not agree to remove that language from Claim 1 on October 15. 2) As a matter of fact, this language “a portion of” is present in Claim 3. In order to be in accordance with Claim 3, Claim 1 must have this language included. 3) The language “a composition comprising a soluble peptide containing a portion of amino acid 1-136 of SEQ ID NO:2” was granted by The Board of Appeal (Decision p.13). The applicant would not give up what was granted after an Appeal process.

A final version of the Allowable set of Claims as understood by the Applicant after both interview of October 14 and 15, 2010 is presented after the REQUEST.

### **REQUEST**

The Amended Claim 1 be restored as agreed and acceptable by the applicant by adding the language “a portion of” (underlined) and read as follow: “A method of modulating an immune response including administering to an animal, in need thereof, a

composition comprising a soluble polypeptide of SEQ ID NO: 2, or a fragment thereof, wherein said fragment consist of a portion of amino acid 1-136 of SEQ ID NO: 2, in an amount effective to modulate the levels of TREM-1 and /or ligand binding activity whereby the immune response is modulated in the animal.”

**AMENDMENT TO THE CLAIMS**

Claims 2, 4, 6-10, 12-14 and 17-39 are cancelled. Claims 3, 5, 11, 15, 16, 40, 41, and 42 are presented in their allowed form. Claim 1 is amended as requested in this Amendment After Allowance.

1. (Amended) A method of modulating an immune response including administering to an animal, in need thereof, a composition comprising a soluble polypeptide of SEQ ID NO: 2, or a fragment thereof, wherein said fragment consist of a portion of amino acid 1-136 of SEQ ID NO: 2, in an amount effective to modulate the levels of TREM-1 and /or ligand binding activity whereby the immune response is modulated in the animal.

2. (Canceled)

3. (Allowed) The method of claim 1, wherein said polypeptide, or said fragment duplicate SEQ ID NO: 2, or a portion of amino acid 1-136 of SEQ ID NO: 2.

4. (Canceled)

5. (Allowed) The method of claim 1 or 3, wherein said immune response is an inflammatory response.

Claims 6-10. (Canceled)

11. (Allowed) The method of claim 1 or 3, wherein said polypeptide, or said fragment are admixed with a pharmaceutical carrier.

Claims 12-14 (Cancelled)